

**FEOSH NEWS BULLETIN – December 15, 2003**  
**10 CFR 851, Worker Safety and Health Notice of Proposed Rulemaking in Progress**  
**Will Affect Both DOE Federal Employees and DOE Contractors**

On December 2, 2002, Congress passed the Bob Stump National Defense Authorization Act, which amended the Atomic Energy Act of 1954 to include Section 234C. Section 234C directs the Secretary of Energy to promulgate regulations for industrial and construction health and safety for its facilities that are operated by contractors with Price-Anderson indemnification agreements. The regulations must provide a level of protection to workers at such facilities that is substantially equivalent to the level currently provided to workers. Section 234C also gave DOE the authority to assess either a civil or contract penalty to any covered contractor for violating the promulgated regulations.

The proposed regulation would apply to DOE Federal Employees and DOE contractor workplaces and would set forth the obligation of DOE and its contractors to provide a safe and healthful workplace for its employees. In particular, the proposed rule would require DOE and its contractors to ensure: (1) that the workplace is free from recognized hazards that are likely to cause death or serious bodily harm; and (2) that work is performed in accordance with an approved worker safety and health program for the workplace. This proposed rulemaking in 10 CFR 851 does not in any way remove DOE compliance obligations under Title 29 CFR Part 1960, *Elements for Federal Employee Occupational Safety and Health Programs*, Section 19 of the Occupational Safety and Health Act of 1970, and Executive Order 12196, *Occupational Safety and Health Programs for Federal Employees*.

The Department actively responded to the legislation. On December 8, 2003, the Department published a notice of proposed rulemaking for worker safety and health, Title 10 Code of Federal Regulations 851 (10 CFR 851), and technical, conforming amendments to 10 CFR 850, Chronic Beryllium Disease Prevention Program, in the Federal Register for public review and comment. A copy of the notice, procedures for commenting, and the announcement of public meetings may be found at: [www.eh.doe.gov/whs/rulemaking](http://www.eh.doe.gov/whs/rulemaking). The comment period will end on February 6, 2004.